BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

WESTFAIR ASSOCIATES PARTNERSHIP, and C. ROBERT SUESS, Petitioners, vs. LANE COUNTY, Respondent, and CREST-BLANTON NEIGHBORS, DUANE FUNK, DAVID FUNK, JAMES HARRANG, NADINE HARRANG, HELEN HOLLYER, PETER VON HIPPEL, and JOSEPHINE VON HIPPEL, Intervenors-Respondent.	LUBA No. 92-233 FINAL OPINION AND ORDER

Appeal from Lane County.

Michael E. Farthing, Eugene, filed the petition for review and argued on behalf of petitioners. With him on the brief was Gleaves, Swearingen, Larsen, Potter, Scott & Smith.

Stephen L. Vorhes, Assistant County Counsel, Eugene, filed a response brief and argued on behalf of respondent.

Theodore G. Herzog, Portland, filed a response brief and argued on behalf of intervenors-respondent. With him on the brief was Tonkon, Torp, Galen, Marmaduke & Booth.

HOLSTUN, Referee; SHERTON, Chief Referee; KELLINGTON, Referee, participated in the decision.

AFFIRMED 08/16/93

You are entitled to judicial review of this Order.

Judicial review is governed by the provisions of ORS 197.850.

Opinion by Holstun.

NATURE OF THE DECISION

Petitioners appeal the county's denial of their request that the Lane County Rural Comprehensive Plan (Rural Plan) map designation for a 121 acre parcel be changed from "Agricultural Lands" to "Non-resource" and that the zoning map designation be changed from Exclusive Farm Use (E-40) to Rural Residential (RR-5).

MOTION TO INTERVENE

Crest-Blanton Neighbors, Duane Funk, David Funk, James Harrang, Nadine Harrang, Helen Hollyer, Peter Von Hippel, and
Josephine Von Hippel move to invervene on the side of respondents in this appeal. There is no opposition to the motion, and it is allowed.

FACTS

The subject property is located a short distance south of the City of Eugene urban growth boundary (UGB). The property is surrounded by parcels designated Rural Residential. Petitioners asked the county to change the current Rural Plan and zoning map designations to allow development of residences on the property. Petitioners contend the subject property is neither "agricultural land" nor "forest lands," as those terms are defined in Statewide Planning Goals (Goals) 3 (Agricultural Land) and 4 (Forest Lands). For that reason, petitioners argue the property is

properly planned and zoned for rural residential use under the Rural Plan. Alternatively, petitioners contend the Rural Plan and zoning map changes are justified because the subject property is irrevocably committed to nonresource use and, therefore, qualifies for an exception to Goals 3 and 4.

The county found the property is forest land and that the property is not irrevocably committed to nonresource uses and, therefore, denied petitioners' request. Petitioners appeal the county's denial of their request, arguing the county misinterpreted the relevant Rural Plan and Statewide Planning Goal requirements and that the county's decision is not supported by adequate findings or substantial evidence. ORS 197.835(7)(a)(C) and (D); OAR 661-10-071(2)(b) and (d).

FIRST ASSIGNMENT OF ERROR

Even though the subject property is presently planned and zoned for agricultural use, there is no dispute that the property is not agricultural land under Goal 3.[1] The parties' dispute in this appeal is limited to whether the subject property qualifies as forest land, subject to protection under Goal 4.

Goal 4 was amended by the Land Conservation and Development Commission (LCDC) in 1990. Many of the parties'

[1]Apparently less than 50% of the subject property is made up of SCS Class I-IV soils. Neither party contends the subject property is "agricultural land" as that term is defined in Goal 3.

arguments under the first assignment of error concern whether the pre-amendment or post-amendment versions of Goal 4 and its implementing rules apply to the challenged decision. There are two important points that bear mentioning before we turn to the parties' arguments. First, at all relevant times, both before and after the 1990 Goal 4 amendments, Goals 3 and 4 and their implementing rules allowed property that qualified for protection under both of those goals to be planned and zoned for either agricultural or forest use. Therefore, the fact that the property was designated "Agricultural Lands" and placed in an exclusive farm use zone does not have any particular bearing on whether the subject property qualifies as "forest lands."

Second, regardless of which version of Goal 4 and the Goal 4 implementing rules applies, the goal and rule requirements are minimum standards. To the extent a local government does not run afoul of other goal requirements or other applicable legal requirements, a local government may regulate more restrictively than the goal requires. See Von Lubken v. Hood River County, 104 Or App 683, 687, 803 P2d 750 (1990), modified 106 Or App 226, rev den 311 Or 349 (1991) (counties may regulate nonfarm uses more restrictively than required by exclusive farm use zoning statutes); Kola Tepee, Inc. v. Marion County, 99 Or App 481, 483-84, 782 P2d 955 (1989), rev den 309 Or 441 (1990).

Rural Plan Goal 2, Policy 16 provides, in pertinent

part, as follows:

> "Where lands are not farm or forest lands, they may be designated on the plan diagram as rural residential or as parks and recreation, provided:
>
> "a. Detailed and factual documentation has been provided indicating that the subject lands are not farm and forest lands as defined by Statewide Planning Goals #3 and #4.
>
> "* * * * *"

The parties' dispute focuses on the meaning of "forest lands as defined by [Goal 4]," as those words are used in the above quoted Rural Plan policy and on the definition of "forest lands" in current Goal 4. The county determined that the term "forest lands" in the Rural Plan policy carries the definition of that term contained in Goal 4 at the time the Rural Plan policy was adopted in 1984.[2] The county applied that definition to the subject property, and found that the property is suitable for commercial forest use. Consequently, the county concluded the subject property is "forest lands as defined by [Goal 4]" and, therefore, cannot be designated for rural residential

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[2]In 1984, Goal 4 defined "forest lands" as follows:

> "Forest lands are (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses; (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation; (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use; (4) other forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use." (Emphasis added.)

development under the Rural Plan policy.

The county also adopted the following findings:

> "[T]his application must be judged for compliance with the current Statewide [Planning] Goals. In that context, the Board [of Commissioners] concludes that it has the authority to apply, to this decision, a criteria [sic] which may exceed the definition of forest land which the applicant argues is embodied in the new Goal 4 language. In other words, Lane County may treat as 'forest lands' property, such as the subject property, which is not currently designated as forest land in the [Rural Plan]. This belief is grounded in part in the authority provided to Counties under OAR 660-06-010 to protect lands of dual capability (i.e. farm and forest) by designation in the [Rural Plan] as either agricultural or forest lands." Record 21.

We understand the above findings to take the position that although the county may not be required to consider the subject property as "forest lands" under current Goal 4 requirements for making a decision on the proposed plan amendment, the county may nevertheless elect to do so without violating any requirement of Goal 4, as it is currently written. The county defends its ability to consider the forest potential of the subject property by referring to the way lands with both agricultural and forest potential may be planned and zoned under current and past versions of Goals 3 and 4 and their implementing rules.

Petitioners contend the Rural Plan policy is properly interpreted as incorporating the current definition of "forest lands" adopted in 1990, several months before the application leading to the challenged decision was submitted

to the county.[3] Under that definition, petitioners argue the subject property is not forest lands. Petitioners contend the county misconstrued the applicable law in applying the prior definition of forest lands and in denying the requested Rural Plan and zoning map amendments on the basis that the subject property qualifies as forest lands under that prior definition.[4]

Intervenors-respondent argue that even if the Rural Plan policy incorporates the 1990 Goal 4 definition, the 1990 definition does not limit forest lands to "those lands acknowledged as forest lands as of the date of this [1990] goal amendment" in circumstances where there is a postacknowledgment plan amendment. According to intervenors-respondent, when a proposed plan amendment involves forest lands, the determination of whether the

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[3]Goal 4, as amended in 1990, defines forest lands as follows:

> "Forest lands are those lands acknowledged as forest lands as of the date of this [1990] goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources." (Emphasis added.)

[4]Petitioners' argument that the subject property is not "forest lands" under the current definition of that term in Goal 4 is based almost entirely on the first sentence of the current definition of "forest lands." Because the subject property was designated as agricultural rather than forest land in the acknowledged Rural Plan when the 1990 Goal 4 amendments were adopted, petitioners contend that ends the inquiry as to whether the subject property is forest lands.

affected property is forest lands is governed by the second sentence of the current Goal 4 definition of forest lands, quoted above. Since that part of the current definition, like the old definition, includes lands suitable for commercial forest uses, and the county found the subject property is suitable for commercial forest uses, intervenors-respondent contend the county correctly determined the property is subject to protection under Goal 4.

As the county correctly notes in its decision, the challenged decision concerns an amendment to an acknowledged comprehensive plan. Postacknowledgment plan amendments must comply with the Statewide Planning Goals. ORS 197.175(2)(a); 197.835(4); 1000 Friends of Oregon v. Jackson County, 79 Or App 93, 718 P2d 753 (1986). Under the interpretation of current Goal 4 suggested by petitioners, the county could rely on the first sentence of the current definition of forest lands in Goal 4 and determine the subject property is not "forest lands" because it is not designated as forest land in the acknowledged Rural Plan. Under this interpretation, the county would not consider whether the subject property is suitable for commercial forest use. However, if the interpretation suggested by intervenors-respondent is correct, under the second sentence of the current definition of "forest lands" in Goal 4, in adopting a postacknowledgment plan amendment the county must

determine the subject property is forest land subject to Goal 4 protection, if the subject property is suitable for commercial forest use.

There is considerable question about whether petitioners or intervenors-respondent correctly interpret the current Goal 4 definition of "forest lands." However, we need not reach the interpretive issue because we agree with respondent that the county acted within its interpretive discretion in interpreting its Rural Plan policy as incorporating Goal 4 as it existed when the Rural Plan policy was adopted, prior to the 1990 Goal 4 amendments. Clark v. Jackson County, 313 Or 508, 515, 836 P2d 710 (1992) ("LUBA is to affirm the county's interpretation of its own ordinance unless LUBA determines that the county's interpretation is inconsistent with express language of the ordinance or its apparent purpose or policy"); see Goose Hollow Foothills League v. City of Portland, 117 Or App 211, 843 P2d 992 (1992); West v. Clackamas County, 116 Or App 89, 840 P2d 1354 (1992); Cope v. City of Cannon Beach, 115 Or App 11, 836 P2d 775 (1992), aff'd ___ Or ___ (slip op August 5, 1993).

Construing the Rural Plan policy as referring to the prior version of Goal 4 does not allow development of forest lands that would otherwise be prohibited by the current Goal 4 (under either petitioners' or intervenors' suggested interpretation of the goal) and, therefore, is not

inconsistent with current Goal 4. Under the Rural Plan policy and the prior Goal 4 definition of "forest lands," the county properly considered whether the property is suitable for commercial forest use and determined that land which is suitable for commercial forest use cannot be designated on the plan diagram for rural residential development.

One additional point merits comment. Citing Urquhart v. Lane Council of Governments, 80 Or App 176, 721 P2d 870 (1986), petitioners suggest the county is bound by the current Agricultural Lands designation for the subject property and may not consider whether the subject property should be protected under Goal 4 in this postacknowledgment plan amendment proceeding. The reasoning that led the court of appeals to conclude that the postacknowledgment plan amendment challenged in Urquhart need not consider compliance with Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources) does not, in our view, apply with regard to compliance with Goal 4 in the context presented in this case.

Urquhart expresses a limitation or refinement of the requirement that a local government demonstrate a proposed postacknowledgment plan amendment complies with all applicable statewide planning goals. See 1000 Friends of Oregon v. Jackson County, supra. In Urquhart, the court explained that when approving a postacknowledgment plan

amendment, a local government need not consider whether the affected property should be added to the comprehensive plan Goal 5 resource inventory and protected, where the property was not included on the acknowledged plan's Goal 5 inventory. The court explained as follows:

> "[T]he issue in this case differs from the one in [1000 Friends of Oregon v. Jackson County, supra]. Here, the affected area was excluded from the inventory before the amendment was enacted, and the amendment does not affect the inventory. Indeed, the converse seems to be true, i.e., the absence of the area from the inventory is what makes it possible for the new designation to be attached to the area without a Goal 5 resolution of the conflict between the area's open space use and University/Research use called for by the amendment. * * *." Urquhart, supra, 80 Or App at 180.

The court went on to explain that if the site mistakenly had been omitted from the acknowledged Goal 5 inventory, periodic review under ORS 197.640 to 197.647, rather than the postacknowledgment plan amendment challenged in that appeal, was the appropriate vehicle for correcting that mistake.

Petitioners attempt to analogize the county's failure to designate the subject property as forest lands under Goal 4 to the absence of the property in Urquhart from the inventory of Goal 5 resource sites. The analogy fails because in Urquhart there was reason to assume the property was consciously omitted from the Goal 5 inventory before the plan was acknowledged and, therefore, that the property did

not qualify for protection or conservation under Goal 5.[5] On the other hand, here there is no reason to assume the subject property's current "Agricultural Land" designation in the Rural Plan means the property is not forest lands subject to protection under Goal 4. As we have already noted, applicable LCDC administrative rules at all relevant times allowed the county to select a forest or an agricultural plan and zoning designation for lands that qualify as both agricultural and forest lands.[6] The fact that the subject property is designated "Agricultural Lands" in the acknowledged Rural Plan tells us nothing about whether the subject property is forest lands. Therefore, there is nothing in the court's reasoning in Urquhart that would preclude the county from applying Goal 4 to the

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[5]Property may be omitted from a Goal 5 inventory because it is not land subject to Goal 5 or because the local government determined that there was not enough information concerning the site to warrant including the site on the Goal 5 inventory. OAR 660-16-000(5)(a). In either event, the local government would not be required to apply the Goal 5 process to properties omitted from the Goal 5 inventory or to conserve or protect such omitted properties.

[6]OAR 660-06-010 currently provides as follows:

"* * * Lands inventoried as Goal 3 agricultural lands * * * are not required to be inventoried under OAR 660-06-010. * * *"

OAR 660-06-015(2) currently provides as follows:

> "When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation."

subject plan amendment because of the subject property's "Agricultural Lands" plan designation.

The county found that the subject property is suitable for commercial forest uses. Assuming that finding is supported by substantial evidence, the county's decision that the subject property should not be replanned and rezoned for rural residential use without an exception to Goal 4 is not subject to reversal or remand.[7]

The first assignment of error is denied.

SECOND ASSIGNMENT OF ERROR

The county's findings acknowledge evidence submitted by the applicant in support of its position that the subject property does not qualify as forest lands. That evidence includes 1979 and 1983 reports prepared by J.Q. Tomkins, an engineering geologist, in which he "indicated that the property contained 48 acres of forest land of which 10 acres was called 'prime capacity' and 38 acres were called 'limited capacity.'" Record 22. A second document referred to in the findings as the "Wolf report" concluded that 46% of the subject property (55.66 acres) is capable of producing 115 cubic feet per acre per year.[8] Id.

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[7]We consider whether the finding is supported by substantial evidence under the second assignment of error below.

[8]The report also states that part of the property is unusable for forest production because of a trail easement and scenic buffers and fire breaks. The report further discusses limitations on common forest management practices due to proximity of residential uses and concludes that the property is not suitable for commercial forest use. Record 898.

The findings acknowledge that in the past the county has applied a "predominance test," under which properties which do not contain at least 50% forest lands were not inventoried as forest lands or planned and zoned in accordance with Goal 4. However, the findings go on to point out the applicants sold timber on the subject property in 1989 and that opponents of the proposal submitted evidence that the pre-1989 harvest volume on the subject property was between 800 and 1200 million board feet (MBF). The findings note that one of the opponents' experts estimated the pre-1989 harvest volume at approximately 1,166 MBF with a gross income of $513,040 and a net value of $338,140.[9] Record 240.

From the evidence in the record, the board of commissioners adopted the following findings explaining its conclusion that the subject property constitutes forest lands:

> "The Board [of Commissioners] first takes notice of the table of minimum acreage sizes for land divisions at [Lane Code (L.C.)] 16.221(3)(c)(iii) cited in the staff report of March 25, 1991 to the Planning Commission. Although this case does not present a land division issue, the table is useful for another purpose. Specifically, those acreages were adopted to represent the minimum commercially feasible acreage for forest operation on soils of

[9]The expert estimated that 80 of the 121 acres making up the subject property were forest land and stated the property could be used as forest land. Record 45, 240. A second expert testified on behalf of opponents that prior to harvest in 1989 "about 76 acres was covered by a well stocked stand of conifers." Record 239.

different productivity ratings. Those acreage minimums are based on a memorandum from the Oregon [D]epartment of [F]orestry and were adopted as part of the legislative findings upon which plan acknowledgment was based.

"Using that table, a parcel with a rating of 115 ft.^{3}/acre/year would need only 34 acres to qualify as a commercially feasible forest unit. The 46 percent of the property (55.66 acres) stated by the applicant's forester to be rated at 115 ft.^{3}/acre/year are above the minimum to be considered commercially viable. * * *

"The record also shows that approximately 60 percent of the property may not be commercially viable for forestry. * * * Whether or not the county is entitled to use the predominance test, the Board [of Commissioners] is skeptical of the test's logic. It could mean, for example, that a 200 acre parcel could be designated as non-forest even though 99 acres contained the finest forest lands in the region. To adopt such a test would create a significant inconsistency with Lane County's existing acknowledged comprehensive plan and implementing regulations. The Board [of Commissioners], therefore, declines to apply the predominance test to the facts of this case.

"* * * * *." Record 23-24.

The board of commissioners then concluded that the subject property is properly viewed as forest land and should retain its resource designation.[10]

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[10]The county actually concluded that the property "should retain its designation as Forest Land on the [Rural] Plan Diagram." As petitioners correctly note, the current Rural Plan Diagram designation for the subject property is "Agricultural Lands." We understand the county to have concluded that in view of the subject property's potential for forest use, changing the Rural Plan Designation to allow rural residential use would be inappropriate and a resource designation should be retained. The mistaken reference to "Forest Land" is harmless.

Petitioners contend the above findings demonstrate the county arbitrarily refused to apply the "predominance test" and improperly applied inapplicable land division standards. Petitioners further argue the evidence in the record does not support the county's ultimate conclusion that the subject property may properly be viewed as forest land.

A. Predominance Test

In preparing and adopting the Rural Plan in 1984, the county developed working papers to assist in applying the Statewide Planning Goals, including Goal 4. In the case of Goal 4, standards and factors were developed to identify and designate property as forest land. Petitioners argue the Forest Lands Working Paper "defined forest land as sites capable of producing greater that 50 cubic feet of timber per [acre per] year." Petition for Review 20. Petitioners contend that when the property is viewed as a whole, its productivity does not satisfy this 50 cubic foot standard. Id. Moreover, petitioners contend the county has in the past applied a "predominance test" so that properties such as the subject property that are not predominantly composed of soils with the requisite timber producing capability were not designated forest lands.

Petitioners criticize the county's example of how applying the predominance test could result in designating a 200 acre property with 99 acres of prime forest land as not being forest land. Petitioners provide their own example of

how not applying the predominance test and relying literally on the county's land division standards could result in a 1000 acre parcel with only 34 acres of forest land being inventoried as forest lands.

The difficulty with petitioners' arguments is that the county did explain in the above quoted findings its reasons for not applying the predominance test and its reasons for concluding the property should be considered forest lands despite the limited timber producing capability of much of the property. We do not understand petitioners to argue that Goal 4 requires the county to apply the predominance test. To the extent the county was required to explain its decision not to apply the predominance test in this case, we believe it adequately did so.

This subassignment of error is denied.

B. Land Division Standards

As we read the county's decision, it simply used the cited land division standards as an aid in determining whether this parcel contains enough suitable forest land to warrant planning and zoning the entire parcel for forest uses, even though more than one-half of the parcel has limited potential for commercial forest use. We do not read the county's decision as improperly relying on the land division standards for a purpose they were not intended to serve. The findings simply explain that even if the applicants' expert's estimates of the amount of land

suitable for forest uses is correct, the area that concededly is suitable for commercial forest uses is significant and would qualify as a commercially viable parcel if viewed in isolation in the context of a land division request. We see no error.

This subassignment of error is denied.

C. Substantial Evidence

Substantial evidence is evidence a reasonable person would accept as adequate to support a decision. City of Portland v. Bureau of Labor and Ind., 298 Or 104, 119, 690 P2d 475 (1984); Bay v. State Board of Education, 233 Or 601, 605, 378 P2d 558 (1963); Van Gordon v. Oregon State Board of Dental Examiners, 63 Or App 561, 567, 666 P2d 276 (1983); Braidwood v. City of Portland, 24 Or App 477, 480, 546 P2d 777 (1976); Carsey v. Deschutes County, 21 Or LUBA 118, 123, aff'd 108 Or App 339 (1991); Douglas v. Multnomah County, 18 Or LUBA 607, 617 (1990). The board of county commissioners relied on evidence supplied both by the applicants and by the opponents in concluding that the subject property has sufficient value for commercial forest use to constitute forest land subject to protection under Goal 4. We agree with respondent and intervenors-respondent that the evidence the county relied upon is sufficient to constitute substantial evidence to support that conclusion. Although the evidence shows the subject property has physical characteristics that significantly limit its value for

forest uses and is in close proximity to urban and rural residential uses which further limit its suitability for commercial forest use, we cannot say a reasonable person could not determine that the subject property is properly viewed as forest lands subject to protection under Goal 4.

THIRD ASSIGNMENT OF ERROR

Under this assignment of error, petitioners contend the county erroneously rejected their argument that because the subject property is committed to nonresource uses an exception to Goal 4 should be allowed under ORS 197.732(1)(b) and OAR 660-04-028. In rejecting petitioners arguments, the county adopted the following findings:

> "The applicant submitted uncontradicted evidence that the subject parcel is surrounded, except for a 500 foot length on the southern border, by land acknowledged by LCDC to be developed or committed to non-resource use and zoned for rural residential uses. [There also is evidence] concerning EWEB water service available to the northern 20 to 30 percent of the property.
>
> "Both sides agreed that the subject parcel consists of 121 acres in a single ownership, is free of any improvements and is not the site of any land division or conditional use permit approvals.
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> "The record also contains the written testimony of Harvey Hoglund, Associate Planner, who was responsible for staff work on more than 700 'developed and committed' exception area requests submitted by Lane County to the LCDC between 1989 and 1990. Mr. Hoglund's testimony was that few parcels larger than 20 acres were approved by LCDC under the factors to be considered for an exception as found at OAR 660-04-028(6).

> "* * * Based on Mr. Hoglund's testimony, the facts noted above, including the testimony of foresters Wolf and Sahonchik[,] and the Board's own notice of recent exception area experience, the Board [of Commissioners] concludes that the requirements for a 'committed' exception to Goal 4 have not been met." Record 26.

Petitioners argue the above findings show the county's denial of this request for approval of an exception to Goal 4 was based on the county's concern about what LCDC might do, rather than on the applicable criteria. We do not agree.

While the findings quoted above do not specifically address each of the criteria for exceptions for "Land Irrevocably Committed to Other Uses" stated in OAR 660-04-028(6), some of the factors that rule requires to be addressed are addressed in the findings. The findings do briefly note existing adjacent committed uses and discuss parcel size, both of which are factors to be considered under OAR 660-04-028(6).[11] Unlike petitioners, we do not read the above quoted findings as improperly "adopting a 20 acre rule" or rejecting the requested exception out of "[f]ear of what LCDC might do * * *." Petition for Review

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[11]OAR 660-04-028(6)(a) requires consideration of "[e]xisting adjacent uses." OAR 660-04-028(6)(c) requires consideration of parcel size, and subsection (B) of that section provides as follows:

> "* * * The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. * * *"

24. Rather, we read the above findings as expressing the position that in view of the large undeveloped area of the subject property and the manner in which the exception standards were construed and applied by LCDC in acknowledging Lane County's Rural Plan, the subject property is not committed to nonresource use.

While the county's findings might have been more detailed, they adequately express reasons why the county believes the applicants failed to demonstrate the subject property is irrevocably committed to nonforest uses. Small parcel size is frequently a basis for requesting an exception and is explicitly recognized in OAR 660-04-028(6) as a factor that may provide support for an exception. The county's denial of the requested exception was based in significant part on the relatively large size and undeveloped nature of the subject property.

With regard to petitioners' arguments concerning the alleged 20 acre rule, we read the county's findings as simply recognizing the view that the court of appeals has taken of irrevocably committed exceptions for some time, i.e. that "an exception must be just that -- exceptional." 1000 Friends of Oregon v. LCDC (Jefferson County), 69 Or App 717, 731, 688 P2d 103 (1984). The county concluded that the applicants had not carried their burden in this case, and we see no error.

This subassignment of error is denied.

The third assignment of error is denied.

The county's decision is affirmed.